

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

---

IN RE MUNICIPAL DERIVATIVES  
ANTITRUST LITIGATION

---

THIS DOCUMENT RELATES TO:

*City of Los Angeles v. Bank of America,  
N.A., et al.; No. 08-10351*  
*City of Riverside, et al. v. Bank of America,  
N.A., et al.; No. 09-10102*  
*City of Stockton v. Bank of America, N.A.,  
et al.; No. 08-10350*  
*Contra Costa County v. Bank of America,  
N.A., et al.; No. 09-1197*  
*County of San Diego v. Bank of America,  
N.A., et al.; No. 09-1195*  
*County of San Mateo v. Bank of America,  
N.A., et al.; No. 09-1196*  
*County of Tulare v. Bank of America, N.A.,  
et al.; No. 10-0628*  
*Los Angeles World Airports v. Bank of  
America, N.A., et al.; No. 10-0627*  
*The Redevelopment Agency of the City of  
Stockton, et al. v. Bank of America,  
N.A., et al.; No. 10-0630*  
*Sacramento Municipal Utility District v.  
Bank of America, N.A., et al.;  
No. 09-10103;*  
*Sacramento Suburban Water District v.  
Bank of America, N.A., et al.;  
No. 10-0629*

---

MDL No. 1950

Master Docket No. 08-2516 (VM) (GWG)

**DECLARATION OF NANCIE  
NISHIMURA IN SUPPORT OF  
PUBLIC ENTITY PLAINTIFFS'  
SUPPLEMENTARY BRIEF IN  
OPPOSITION TO ANTITRUST  
DIVISIONS' MOTION FOR STAY OF  
DISCOVERY**

**DECLARATION OF NANCI E. NISHIMURA**

I, Nanci E. Nishimura, hereby declare as follows:

1. I am a partner with the law firm of Cotchett, Pitre & McCarthy, counsel of record for Plaintiffs in the above-noted action, and duly licensed to practice before all Courts of the State of California. This declaration is made in support of Public Entity Plaintiffs' Supplementary Brief in Opposition to Antitrust Division's Motion for Stay of Discovery. I have personal knowledge of the facts set forth in this declaration, and if called upon to testify thereto, could and would competently testify to the following.

2. Plaintiff City of Los Angeles ("Los Angeles") is the second largest city in the United States with an estimated population of 3.8 million people in 2006, according to U.S. Census Bureau statistics, spanning approximately 500 square miles. When combined with the surrounding areas of Long Beach, the economy of Los Angeles is the fifteenth largest in the world. Providing services to this population costs Los Angeles well over \$7.11 billion annually.

3. Based on U.S. Census Bureau statistics, the population of Plaintiff City of Riverside in 2006 was estimated to be 293,761.

4. Plaintiff City of Stockton is a city in the Central Valley of California, with an estimated population of approximately 300,000 in 2006 according to U.S. Census Bureau statistics. While traditionally an agricultural community, over the last ten years Stockton has become a significant bedroom community for commuters working in both the Sacramento and San Francisco Bay areas.

5. Plaintiff San Diego County ("San Diego") is the third largest county in California and is the Southwestern-most county in the contiguous 48 states. Based on U.S. Census Bureau statistics, San Diego had a population of approximately 3 million people in 2009.

6. Based on U.S. Census Bureau statistics, the population of Plaintiff Contra Costa County (“Contra Costa”) in 2009 was estimated to be 1,041,274. Contra Costa’s population includes significant agricultural and urban industrial populations, as well as bedroom communities. Contra Costa has been hit hard in recent years by the crash in home prices and increases in health care costs of its current and retired workers.

7. Based on U.S. Census Bureau statistics, the population of Plaintiff San Mateo County in 2009 was estimated to be 718,989.

8. Plaintiff Tulare County (“Tulare”) is located in the Central Valley of California and is the second leading provider of agricultural commodities in the United States. Based on U.S. Census Bureau statistics, the population of Tulare in 2009 was estimated to be 429,668.

9. Plaintiff Sacramento Municipal Utility District (“SMUD”) transmits and distributes electric power to approximately 1.4 million people living in a 900-square mile service area that includes Sacramento, the State capital of California.

10. Based on data provided by Plaintiff Sacramento Suburban Water District (“Sacramento Water”), the population served by Sacramento Water is 168,000.

11. Attached hereto as **EXHIBIT A** is a true and correct copy of a Report and Proposal to the County Board of Supervisors from David Twa, County Administrator for Contra Costa, dated April 9, 2010.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on this 10<sup>th</sup> day of May, 2010 at Burlingame, California.

By \_\_\_\_\_ /s/ *Nanci E. Nishimura* \_\_\_\_\_  
NANCI E. NISHIMURA

# **EXHIBIT A**

## **County Administrator**

County Administration Building  
651 Pine Street, 11<sup>th</sup> Floor  
Martinez, California 94553-4068  
V-925-335-1080  
F-925-335-1098

**David Twa**  
County Administrator

## **Contra Costa County**



## **Board of Supervisors**

**JOHN M. GIOIA**  
1<sup>st</sup> District

**GAYLE B. UILKEMA**  
2<sup>nd</sup> District

**MARY PIEPHO**  
3<sup>rd</sup> District

**SUSAN A. BONILLA**  
4<sup>th</sup> District

**FEDERAL D. GLOVER**  
5<sup>th</sup> District

April 9, 2010

Board of Supervisors  
Contra Costa County  
Martinez, CA 94553

Dear Board Members:

Contra Costa County has long focused on our Mission “to provide public services which improve the quality of life of our residents and the economic viability of our businesses.” As we move towards fiscal years 2010-2011-2012 and beyond, it is not possible to underestimate how serious we are being challenged in our efforts to meet our public service mission.

### Maintenance of current year's countywide service delivery levels impossible

While the Global and National economy are showing signs of a slow recovery, the same cannot be said for California or Contra Costa County. California State's budget deficits are estimated at \$20 billion each year for 2010-11 and several years beyond. The impact of the housing market collapse on local property tax revenues and pension cost increases continue to negatively impact our Budget for 2010-11 as well as for the next several years. Additionally, we continue to see increased demand for services and no appetite on the part of the public to provide additional funding for services.

In this environment, it is not possible to sustain services at the current level. Since 2008-09 County Departments have reduced their budgets or increased revenue by over \$190 million. Reserve use is likely to increase in the next budget cycle as revenues continue to decline and expenses increase. As was the case for the past two years, significant cuts will be necessary.

We are no longer able to provide the level of services the public demands, nor are we able to sustain our current level of wages and benefits without reductions in the number of employees.

Cuts to our General Government operations will impact our ability to: serve the agriculture community, complete appraisals timely, perform general accounting, respond to public concerns, issue records and reports, support county departments, provide public information, respond and resolve information technology problems, maintain our county properties, and complete personnel actions.

Cuts to our Law and Justice operations will impact our ability to: provide animal service responses, investigate and prepare cases for court, prosecute/defend/provide probation services for misdemeanors, serve at risk youth and domestic violence victims, track probationers, remove abandoned vehicles, provide crime prevention services, complete criminal investigations, respond to crime calls, supervise inmates, and recruit/train/deploy law enforcement officers.

Cuts to our Health and Human Services operations will impact our ability to: respond and serve children, adults and families in our protection programs, provide new-born home visiting, tutor foster youth, help families needing assistance with workforce services, support community organizations, offer therapy services for children and adults, provide access and timely mental health services for children, utilize therapeutic settings for children, perform public health outreach and education, and serve the homeless.

In developing our 2010-2011 budget recommendation, we have strived to adhere to the Board of Supervisor's policies requiring a balanced budget, reserves, and acceptable debt ratios. Most importantly the recommended budget continues to address the Board of Supervisor's fiscal and service delivery priorities including health care cost containment by allocating funds to our OPEB prefunding trust.

The County Administrator's Office has worked closely with our Department Heads to submit budget recommendations that adhere to these policies and to achieve our financial targets. All departments were provided direction to absorb their increased costs of doing business, plus their share of local revenue loss, and their OPEB prefunding requirement. Some departments will also need to make additional cuts once the State Budget is approved. No department is free from impact. This budget is offered as a balanced package including \$3.3 million in general fund reserves; however, in order to keep reserve use as low as possible, we have relied on 'one time only funds' from a variety of sources, the most significant being ARRA (Federal Stimulus funds) and ATA (furloughs). This will result in significantly greater cuts to our 2011-12 budgets unless new stimulus funding occurs, or we are able to arrive at significant wage and benefit savings. Should the Board of Supervisors direct any reductions in the proposed cuts to our 2010-11 budget, this will require changes in other County priorities in order to maintain a balanced budget.

Normally the Baseline Budget identifies the projected funding gap by determining the level of resources required to provide in the budget year the same level of service provided in the prior year. Again due to the significant impacts of mid-year reductions, the Baseline Budget is based upon level of service as of January 1, 2010.

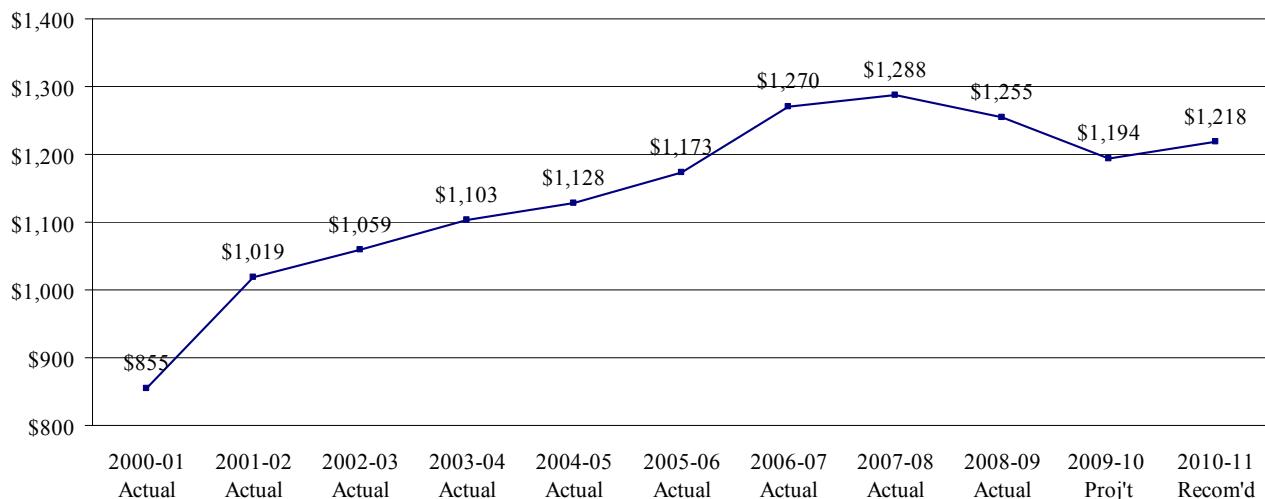
In summary, we are proposing a General Fund budget of \$1.218 billion, which is 2% or \$34.4 million lower than our Baseline Budget total expenditures. Of this amount, \$3.0 million was reduced from health services (excluding Enterprise Funds). Our Hospital Enterprise Fund cut \$3.2 million in maintenance level General Fund subsidy and the Contra Costa Community Health Plan Enterprise Fund cut \$1.0 million for a combined \$7.2 million in reductions from the General Fund to health services.

Revenues show a \$10.9 million increase from Baseline, \$8.8 million of which is in Employment and Human Services from state caseload growth allocations and federal stimulus. This budget requires the elimination of \$23.5 million in programmatic expenditures in the General Fund including 78 funded full-time equivalent position reductions from the Baseline level identified by our departments. This level of required reduction is especially alarming when you consider the Board of Supervisors has already taken action to reduce the County and Special District Budgets by over \$90 million in FY 2008-09 and \$65 million in FY 2009-10.

## Historical Perspective

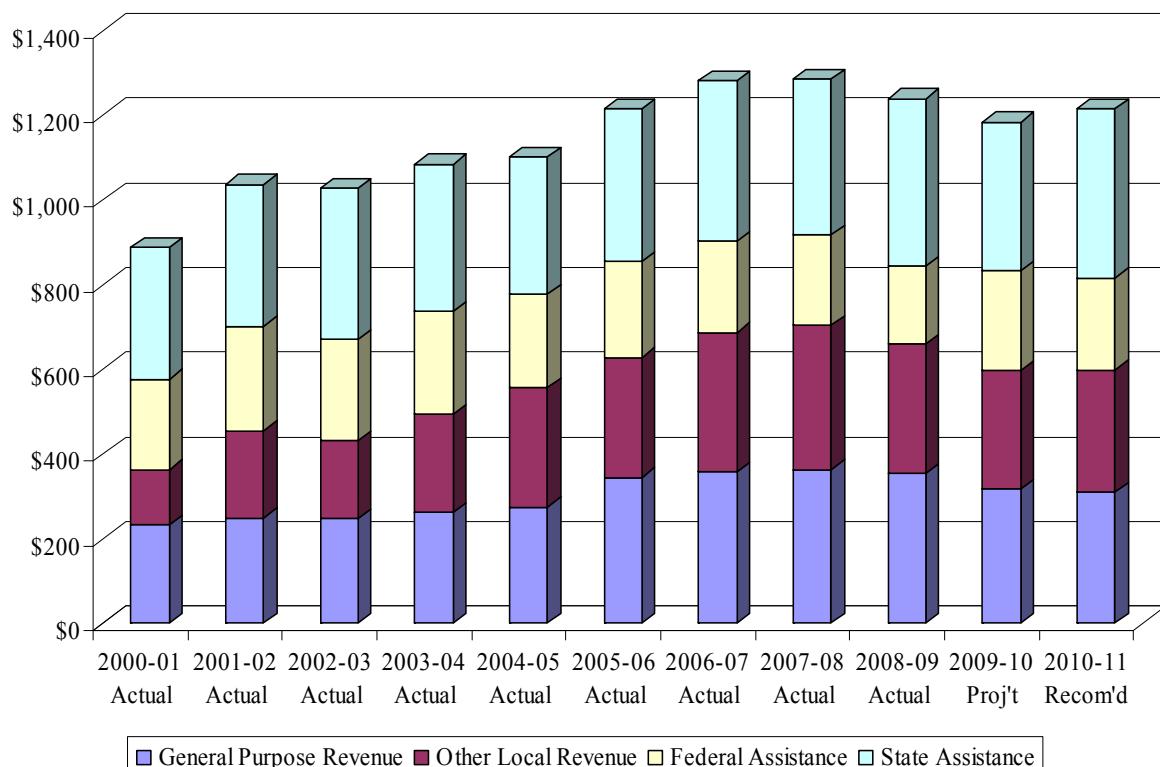
Between FY 2000-01 and FY 2007-08, total expenditures for the General Fund grew by an average of 6.6%. They decline by 2.6% in FY 2008-09 and another 4.9% in FY 2009-10. Although they are expected to grow by approximately 2% in FY 2010-11 due to one-time resources, a decline rather than growth is expected for the next several years.

**10 Year Expenditure Growth (in millions)**



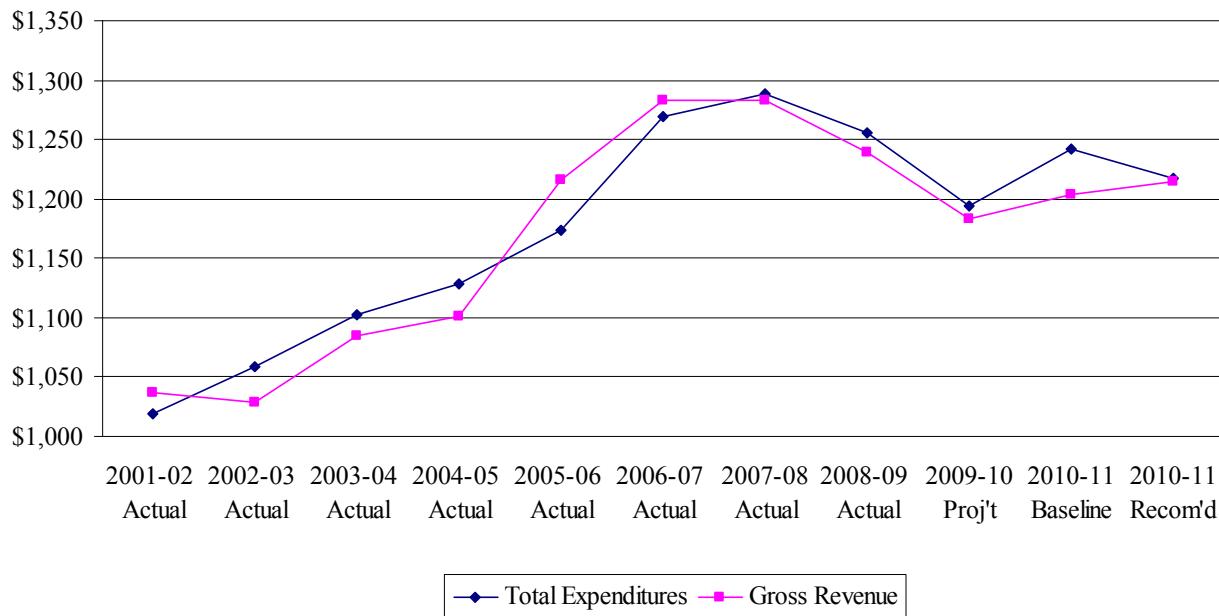
As depicted in the following chart, total revenues began to decline in FY 2008-09 but are expected to increase slightly next year due to one time sources. Although they are expected to grow by approximately 2.6% in FY 2010-11, a decline rather than growth is expected for the next several years.

**10 Year Revenue Generation (in millions)**



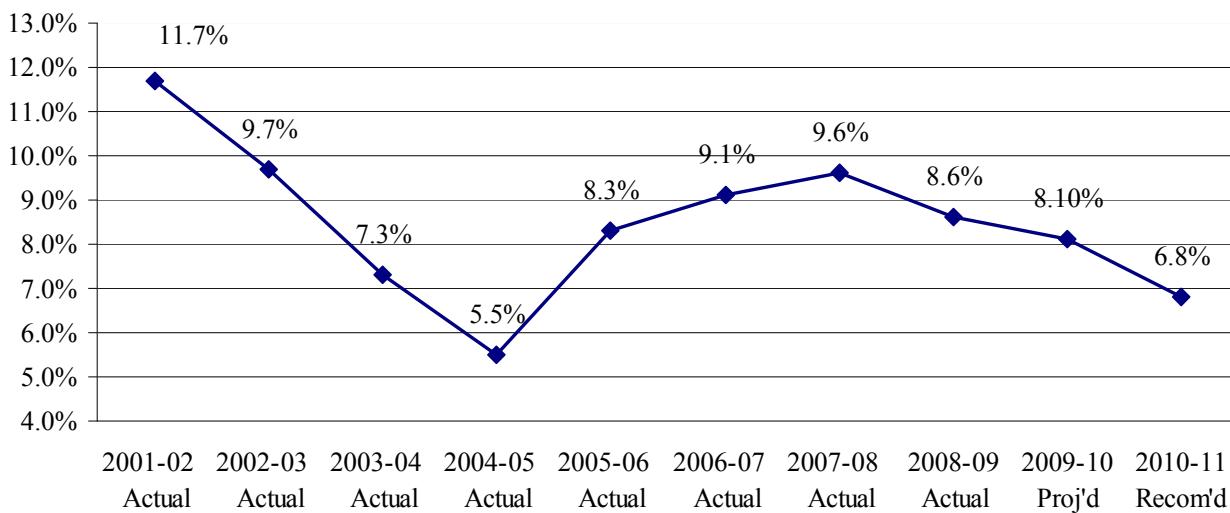
As shown below, the County has struggled with maintaining a structurally balanced budget over the years and is projecting to be unable to balance the current year budget with available annual revenues; the recommended reductions presented for FY 2010-11 use \$3.3 million in General Fund Reserves.

#### **Change in General Fund Actual Status (in millions)**



Prior to the housing market collapse last year; the County had reversed the declining reserves trend experienced earlier this decade. It is anticipated that reserves will be expended in the current fiscal year, and the FY 2010-11 Recommended Budget already includes \$3.3 million in planned reserve spending for on-going program expenses.

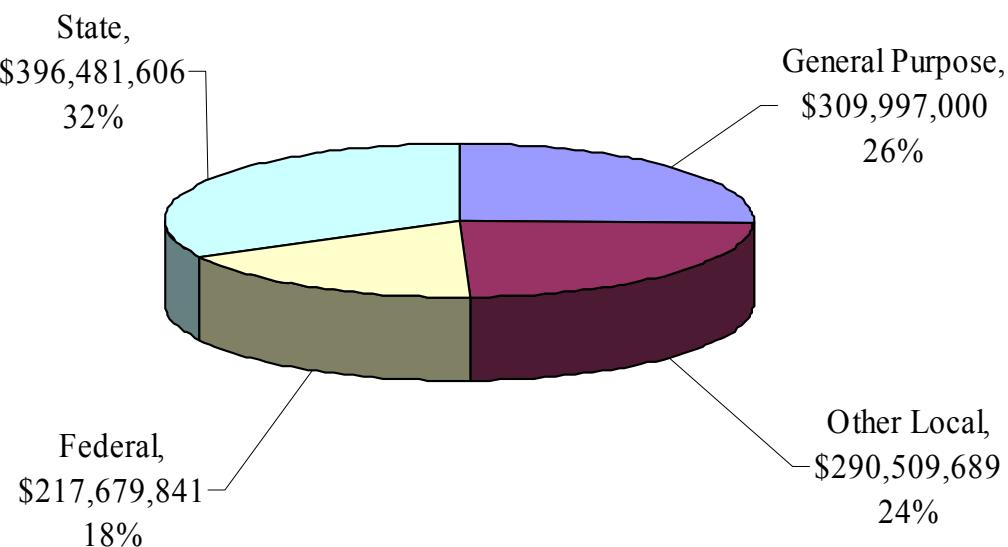
#### **Unreserved Fund Balance (as of June 30)**



## **General Fund Revenue and Appropriations/Recommended Budget**

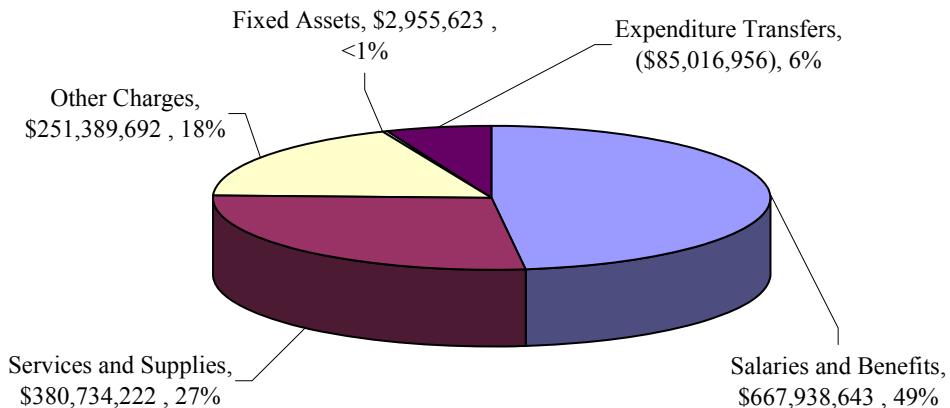
The recommended General Fund budget of \$1.218 billion is supported by local, federal, and state resources. Over half of our revenue, \$614.2 million (50.6%) is dependent on State and Federal allocations. Our general purpose revenue available from sources such as property tax and interest income is only \$310.0 million. The remaining ‘Other Local’ revenue is generated primarily by fees, fines, and licenses. In the past, the assessed valuations of the County’s tax rolls had increased in the double digits due to the strong housing market. The current economic downturn has eliminated growth in assessed valuation and has greatly reduced almost all revenue sources. In FY 2008-09, assessed valuation growth was flat (0.226%), in FY 2009-10 it declined by 7.19%, and it is projected to decline by another 5% in FY 2010-11. The following chart breaks out total revenue by source.

**Total Revenue: \$1.215 Billion**



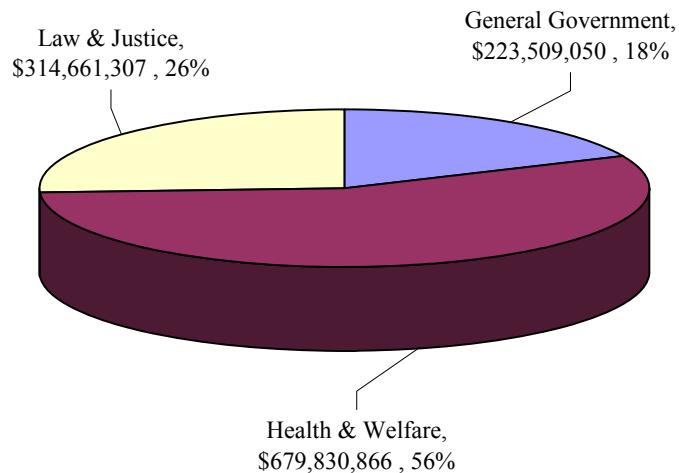
These revenue resources are used to fund programs throughout the County. All categories below are self explanatory, except ‘Other Charges’, which includes contributions to other funds such as the Enterprise Funds and interest expense on bonds and other debt. The following chart breaks out recommended expenditures between the major expense areas.

**Total Expenditures: \$1.218 Billion**



Our General Fund resources fund three functional areas: General Government, Law and Justice, and Health and Human Services. Last year's Recommended Budget included General Government at 18%, Law and Justice at 26%, and Health and Human Services at 56%. The following chart shows the distribution of resources in these three areas in the FY 2010-11 Recommended Budget.

**Distribution of Expenditures**



Each department of the County is included in one of these functional areas and is described in detail in the Recommended Budget. The General Government Functional Group includes Agriculture (including Cooperative Extension functions), Assessor, Auditor-Controller, Board of Supervisors, Central Support Services, Clerk-Recorder, Conservation and Development (formally Building Inspection and Community Development), County Administrator, County Counsel, Crockett/Rodeo Revenues, Debt Service, Department of Information Technology, Employee/Retiree Benefits, General Services, Human Resources, Public Works, and Treasurer-Tax Collector. The Law and Justice Functional Group includes Animal Services, Conflict Defense, District Attorney, Justice Systems Development/Planning, Probation, Public Defender, Sheriff-Coroner, and Superior Court Related Functions. The Health and Human Services Functional Group includes Child Support Services, Employment and Human Services, Health Services Department, and Veterans Services.

As was described above, each of these departments were asked to submit budgets which balanced their requirement to provide services with the County's goals of adopting a FY 2010-11 General Fund budget that balances annual expenses and revenues, and that addresses revenue loss and includes an appropriation for partially pre-funding the County's OPEB liability. The following chart compares the Recommended Budget's share of general purpose revenue between Agencies to the current year.

#### **Changes in Overall Department Share of General Purpose Revenue**

	FY 2009/10	Share of Total	FY 2010/11	Share of
	Budgeted Net County Cost		Recommended	Total
Agriculture-Weights & Measures	1,765,976	0.5%	1,920,124	0.6%
Animal Services	3,250,294	1.0%	3,155,367	1.0%
Assessor	14,756,524	4.5%	14,885,580	4.8%
Auditor-Controller	2,992,166	0.9%	2,904,778	0.9%
Board of Supervisors	6,843,935	2.1%	4,567,880	1.5%
County Administrator	6,696,950	2.0%	4,735,929	1.5%
County Clerk-Recorder	4,231,940	1.3%	4,108,343	1.3%
County Counsel	1,652,072	0.5%	1,603,822	0.5%
District Attorney	11,988,718	3.7%	13,388,579	4.3%
Employment & Human Resources	20,213,944	6.2%	18,047,764	5.8%
General Services	12,023,828	3.7%	11,672,664	3.7%
Health Services	95,336,278	29.1%	89,654,532	28.6%
Human Resources	2,642,816	0.8%	1,888,211	0.6%
Justice System Planning	3,975,628	1.2%	3,847,398	1.2%
Miscellaneous Services	10,136,736	3.1%	8,057,351	2.6%
Plant Acquisition	293,394	0.1%	42,127	0.0%
Probation	34,745,647	10.6%	36,470,257	11.6%
Public Defender	17,225,208	5.3%	16,722,134	5.3%
Public Works	0	0.0%	0	0.0%
Sheriff-Coroner	64,054,640	19.6%	63,948,880	20.4%
Superior Court-Jury Commissioner	10,393,316	3.2%	9,846,320	3.1%
Treasurer-Tax Collector	1,481,790	0.5%	1,301,985	0.4%
Veterans Services	696,296	0.2%	560,061	0.2%
	327,398,096	100.0%	313,330,086	100.0%

The following chart compares the Recommended Budget's share of general purpose revenue between Agencies to the Baseline Budget Request.

### **Comparison of Share between Recommended Budget and Baseline Request**

	FY 2010/11 <u>Baseline Request</u>	Share of <u>Total</u>	FY 2010/11 <u>Recommended</u>	Share of <u>Total</u>
Agriculture-Weights & Measures	1,725,440	0.5%	1,920,124	0.6%
Animal Services	3,561,954	1.0%	3,155,367	1.0%
Assessor	15,105,580	4.4%	14,885,580	4.8%
Auditor-Controller	2,911,546	0.8%	2,904,778	0.9%
Board of Supervisors	4,789,831	1.4%	4,567,880	1.5%
Conservation & Development	42,743	0.0%	0	0.0%
Cooperative Extension	252,094	0.1%	0	0.0%
County Administrator	4,921,911	1.4%	4,735,929	1.5%
County Clerk-Recorder	4,108,343	1.2%	4,108,343	1.3%
County Counsel	1,817,587	0.5%	1,603,822	0.5%
District Attorney	15,611,427	4.5%	13,388,579	4.3%
Employment & Human Services	26,868,867	7.8%	18,047,764	5.8%
General Services	12,388,820	3.6%	11,672,664	3.7%
Health Services	96,832,985	28.0%	89,654,532	28.6%
Human Resources	2,368,136	0.7%	1,888,211	0.6%
Justice System Planning	3,975,628	1.1%	3,847,398	1.2%
Miscellaneous Services	8,057,351	2.3%	8,057,351	2.6%
Plant Acquisition	43,394	0.0%	42,127	0.0%
Probation	37,078,943	10.7%	36,470,257	11.6%
Public Defender	17,204,840	5.0%	16,722,134	5.3%
Public Works	1,454,154	0.4%	0	0.0%
Sheriff-Coroner	72,166,363	20.9%	63,948,880	20.4%
Superior Court-Jury Commissioner	10,393,316	3.0%	9,846,320	3.1%
Treasurer-Tax Collector	1,536,585	0.4%	1,301,985	0.4%
Veterans Services	560,061	0.2%	560,061	0.2%
	<b>345,777,899</b>	<b>100.0%</b>	<b>313,330,086</b>	<b>100.0%</b>

It would appear from the Recommended Budget that the majority of program reductions are coming from a handful of County departments. It should be noted that 80.8% of our general purpose revenue is spent in just seven departments. The chart below shows the ranking of Agency share of general purpose revenue. If we were to attempt to close the budget gap by totally eliminating general purpose revenue funding from departments beginning with the bottom of this chart, we would need to eliminate 16.5 of our 26 departments.

### Ranking of Department Share of General Purpose Revenue

	FY 2010/11 <u>Baseline Request</u>	FY 2010/11 <u>Recommended</u>	Share of <u>Total</u>
Health Services	96,832,985	89,654,532	28.6%
Sheriff-Coroner	72,166,363	63,948,880	20.4%
Probation	37,078,943	36,470,257	11.6%
Employment & Human Services	26,868,867	18,047,764	5.8%
Public Defender	17,204,840	16,722,134	5.3%
Assessor	15,105,580	14,885,580	4.8%
District Attorney	15,611,427	13,388,579	4.3%
General Services	12,388,820	11,672,664	3.7%
Superior Court-Jury Commissioner	10,393,316	9,846,320	3.1%
Miscellaneous Services	8,057,351	8,057,351	2.6%
County Administrator	4,921,911	4,735,929	1.5%
Board of Supervisors	4,789,831	4,567,880	1.5%
County Clerk-Recorder	4,108,343	4,108,343	1.3%
Justice System Planning	3,975,628	3,847,398	1.2%
Animal Services	3,561,954	3,155,367	1.0%
Auditor-Controller	2,911,546	2,904,778	0.9%
Agriculture-Weights & Measures	1,725,440	1,920,124	0.6%
Human Resources	2,368,136	1,888,211	0.6%
County Counsel	1,817,587	1,603,822	0.5%
Treasurer-Tax Collector	1,536,585	1,301,985	0.4%
Veterans Services	560,061	560,061	0.2%
Plant Acquisition	43,394	42,127	0.0%
Conservation & Development	42,743	0	0.0%
Public Works	1,454,154	0	0.0%
Cooperative Extension	252,094	0	0.0%
	<b>345,777,899</b>	<b>313,330,086</b>	<b>100.0%</b>

The following chart shows total appropriations by agency regardless of the funding source. Please note that several agencies – such as the Library and Child Support – do not appear in the charts above because they do not receive any general purpose revenues.

<u>County Departments</u>	FY 2010-11 Baseline Request	FY 2010-11 Recommended	Difference
Agriculture-Weights & Measures	5,488,581	5,683,265	194,684
Animal Services	10,801,974	10,676,627	-125,347
Assessor	19,513,587	19,413,587	-100,000
Auditor-Controller	8,161,802	8,155,034	-6,768
Board of Supervisors	6,873,408	6,651,457	-221,951
Child Support Services	18,902,523	18,902,523	0
Conservation & Development	74,234,530	70,816,287	-3,418,243
Cooperative Extension	252,094	0	-252,094
County Administrator	17,596,021	16,402,910	-1,193,111
County Clerk-Recorder	22,947,574	22,947,574	0
County Counsel	5,706,740	5,492,975	-213,765
District Attorney	30,572,571	28,896,280	-1,676,291
Employment & Human Services	425,742,268	424,126,800	-1,615,468
General Services	63,275,864	62,559,708	-716,156
Health Services	979,819,471	968,462,565	-11,356,906
Human Resources	8,289,661	7,754,136	-535,525
Justice System Planning	11,248,566	11,267,869	19,303
Library	25,457,667	24,745,269	-712,398
Miscellaneous Services	76,719,445	76,719,445	0
Plant Acquisition	3,093,456	3,092,189	-1,267
Probation	64,243,961	61,088,281	-3,155,680
Public Defender	17,249,529	16,766,823	-482,706
Public Works	146,338,031	144,685,743	-1,652,288
Sheriff-Coroner	199,448,740	195,553,161	-3,895,579
Superior Court-Jury Commission	18,358,503	17,641,653	-716,850
Treasurer-Tax Collector	5,093,407	4,858,807	-234,600
Veterans Services	735,061	735,061	0
<b>Special Districts</b>			
CCC Fire Protection District	125,166,070	117,752,070	-7,414,000
Crockett/Carquinez Fire	869,806	485,581	-384,225
Special Districts (other than Fire)	123,893,660	123,893,660	0
Appropriation Grand Total	2,516,094,571	2,476,227,340	<u>-39,867,231</u>

## Full-Time Equivalent Positions (FTEs)

The chart below reflects total estimated position elimination counts as of today for all departments (of the 119 listed, 78 are in the General Fund and were funded this year). Please note that these numbers represent rounded/funded FTEs and are not necessarily filled. The actual number of positions recommended for elimination on May 11 will be higher; this is due to the requirement that all vacant positions within a department in a specific classification with a lay-off be eliminated – funded or not. The actual number of lay-offs will be lower due to vacant positions and bumping.

<u>County Departments</u>	<u>FY 2010-11 Baseline Request</u>	<u>FY 2010-11 Recommended</u>	<u>% of Whole</u>	<u>Reduction</u>
Board of Supervisors	28	28	0.4%	0
Miscellaneous Services	32	32	0.4%	0
County Administrator	129	106	1.4%	-23
Human Resources	45	44	0.6%	-1
Auditor-Controller	54	54	0.7%	0
Treasurer-Tax Collector	30	28	0.4%	-2
Assessor	122	122	1.6%	0
County Counsel	50	49	0.6%	-1
Health Services	2,817	2,803	36.1%	-14
Employment & Human Resources	1,693	1,688	21.7%	-5
County Clerk-Recorder	80	80	1.0%	0
Sheriff-Coroner	990	990	12.7%	0
Probation	345	330	4.2%	-15
Agriculture-Weights & Measures	47	47	0.6%	0
Animal Services	76	76	1.0%	0
Conservation & Development	199	181	2.3%	-18
Child Support Services	170	170	2.2%	0
District Attorney	175	169	2.2%	-6
Public Defender	85	83	1.1%	-2
Public Works	279	262	3.4%	-17
General Services	252	248	3.2%	-4
Library	172	169	2.2%	-3
Veterans Services	6	6	0.1%	0
Total County FTE	<u>7,876</u>	<u>7,765</u>	<u>100.0%</u>	<u>-111</u>

## Special Districts

CCC Fire Protection District	373	365	n/a	-8
Special Districts (non-Fire)	12	12	n/a	0
All Funds FTE	<u>8,261</u>	<u>8,142</u>		<u>-119</u>

## **Other Post Employment Benefits (OPEB)**

In addressing this top fiscal and service delivery challenge, the Recommended Budget again includes \$20 million in partial pre-funding. The January 1, 2010 funding level was 2%. While we would prefer a greater level of pre-funding, the absence of any new resources makes this impossible without further service cuts. Nevertheless, \$20 million will continue to have a significant impact on the County's OPEB liability. The recently released 2010 Actuarial Valuation indicated that over the last four years, the County has reduced its OPEB UAAL by 60%, Normal Cost by 78%, 30 year amortization of UAAL by 60%, and annually required contribution by 71% (from \$216 million to \$63 million). None of these reductions could have been achieved without the support and cooperation of our employees. Continued negotiations towards Countywide health care cost containment strategies and the redirection of designated future resources remain key to resolving the OPEB dilemma. The Board of Supervisors continues to make significant progress towards a solution for one of the biggest fiscal challenges the County has faced to date.

## **American Recovery and Reinvestment Act of 2009**

Department and CAO staff has been very involved in tracking and pursuing opportunities available through the American Recovery and Reinvestment Act of 2009 (Federal Stimulus), which was signed into law on February 17, 2009. The \$787 billion stimulus package provides for unprecedented levels of transparency and accountability and offers a unique opportunity to strengthen our local economy, create jobs, and fund a variety of local and regional projects. The Employment and Human Services Department alone is anticipating \$21.1 million from the Federal Stimulus for a number of programs. Over \$19 million in Federal Medical Assistance Percentages has been included in the 2010-11 Recommended Budget. In an effort to keep the residents of Contra Costa County informed about the American Recovery and Reinvestment Act and our efforts in Contra Costa County, the County Administrator's Office has posted a report that tracks the County's efforts in securing stimulus funding for various projects that will improve the lives of our residents and stimulate the economy. The report, which is updated regularly, is available for review at [www.cccounty.us](http://www.cccounty.us).

## **Fleet/Internal Services Fund**

The FY 2010-11 Recommended Budget includes fully funded vehicle depreciation. Requiring the annual budgeting of full vehicle depreciation will continue to facilitate regularly scheduled replacement of County vehicles, which began in FY 2008-09.

## **Capital Improvement Planning**

FY 2008-09 began implementation of our Capital Facility Improvement Program. The facility maintenance analysis, which was completed in FY 2007-08, revealed the level of improvements that will be required to extend the useful life of County facilities, and promote the health and safety of employees and the public who utilize our County facilities.

The analysis included comprehensive building condition assessments of 93 facilities and a total of 2.9 million square feet of building space, and identified a total of \$251.2 million in deferred facilities maintenance needs and capital renewal requirements organized into 4 categories based on level of priority. The distribution of costs by level of priority was as follows:

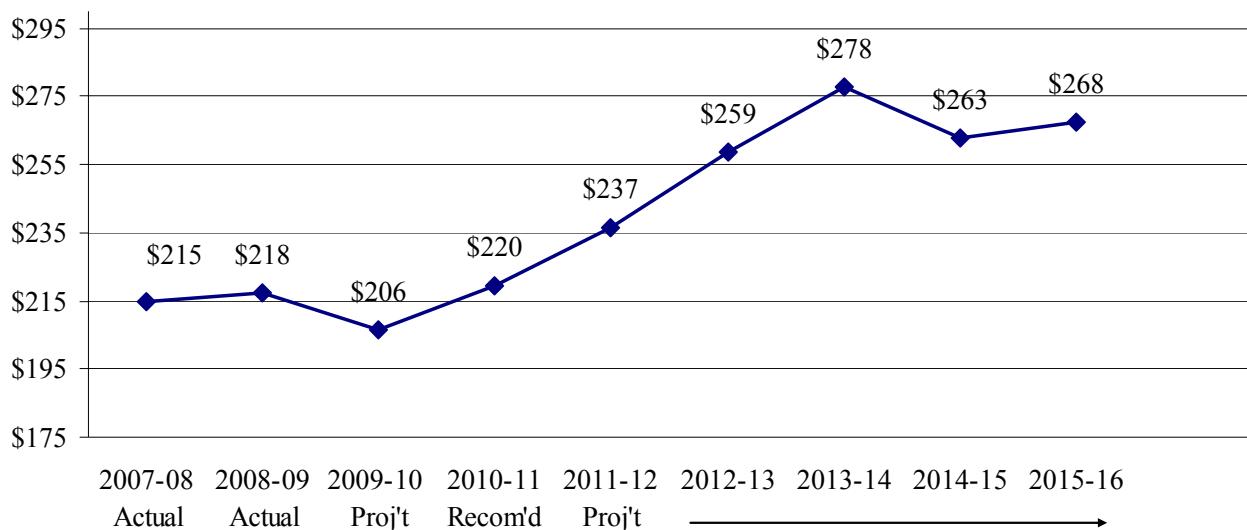
Priority 1 – Currently Critical	\$ 2,059,913
Priority 2 – Potentially Critical	25,881,877
Priority 3 – Necessary, but not Critical	175,052,172
Priority 4 – Necessary, within 6-10 Years	48,180,568

Due to significant fiscal constraints, the FY 2009-10 budget did not include appropriations for capital improvements and neither does the FY 2010-11 Recommended Budget. However, staff will continue to work towards a plan to address our highest priority critical health and safety capital improvements and to develop a mechanism for periodic thorough review of all facilities and use. The County Administrator continues to work with the General Services Director to implement the Real Estate and Asset Management Program (RAMP), which was formalized in the last year. Savings has begun to be achieved through a thorough review of all facility use and the resulting elimination/consolidation of under used properties/leases.

### **Retirement/Pension Costs - Future Year Projections/Budgets**

General Fund retirement expense in the current year is over \$13.6 million less than FY 2008-09. Departments Countywide were able to reduce projected expenditures for FY 2009-10 by a like amount without reducing programs or services. However, beginning in FY 2010-11 calendar year 2008 market losses (26.5%) in combination with unachieved earning assumptions (7.8%) exceeded 34% and have begun to necessitate increased contributions to the Contra Costa County Employees Retirement Association (CCERA). Positive market experience for calendar year 2009 of 21.9% has drastically changed the projection of pension increases since last year; however, pension costs are still expected to increase for the next five years. Actual FY 2007-08 retirement expenses and projected increased contributions, assuming 7.8% earnings annually for the next five years are depicted in the chart below:

**Projected Retirement Expense**



## **Recommendations**

In conclusion, this proposal provides for a General Fund budget of \$1.218 billion. It contains \$23.5 million in reductions including our Enterprise Funds. All Departments are impacted—however, the impact is relatively slight compared to past years. These changes are the minimum necessary to respond to economic losses and to address our costs of providing public services. The worst is yet to come.

It is recommended that the Board of Supervisors:

1. Open and conduct a public hearing to receive input on the FY 2010-11 Recommended Budget;
2. Acknowledge that, due to significant market losses in the Contra Costa County Employees Retirement Association assets, retirement expenses have begun to and are expected to continue to increase significantly in the next five years.
3. Acknowledge that the Recommended Budget is not structurally balanced containing over \$41.2 million in one-time or non-continuing monies including Federal Stimulus;
4. Acknowledge that action by the State regarding its budget may require subsequent adjustments to the Recommended Budget adopted by the Board;
5. Acknowledge that, although the Recommended Budget does not include a specific appropriation for contingency, the Board maintains its ability to manage General Fund contingencies during the fiscal year by use of reserve funds set aside for that purpose;
6. Direct the County Administrator to prepare for Board adoption on May 11, 2010, the FY 2010-11 County and Special District Budgets, as modified, to incorporate any changes directed by the Board during these public hearings; and
7. Direct the County Administrator to prepare for consideration by the Board of Supervisors on May 11, 2010, lay-off resolutions necessary to carryout Board action on the Recommended Budget.

Sincerely,



DAVID TWA  
County Administrator

DT:LD